

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT  
DEPARTMENT[605]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3 and 34A.22, the Homeland Security and Emergency Management Department hereby amends Chapter 10, “Enhanced 911 Telephone Systems,” Iowa Administrative Code.

The amendments are intended to implement 2016 Iowa Acts, House File 2439 and Senate File 2326, which amend Iowa Code chapter 34A. These amendments primarily focus on the distribution of collected wireless E911 surcharge revenues. First, the amount of wireless E911 surcharge revenues passed to the local E911 services board is increased from 46 percent to 60 percent of revenues collected. The method by which these funds are disbursed remains unchanged from current practice. Funds are disbursed based on wireless 911 call volume and square miles of the E911 service area for the associated public safety answering point (PSAP). Second, a one-time payment of \$4,383,000 is made to the Public Safety Department for payment of the 2017 state fiscal year financing agreement entered into by the Treasurer of State for the statewide interoperable communications system described in Iowa Code section 29C.23 as amended by 2016 Iowa Acts, Senate File 2326. Last, any unspent funds, not to exceed \$4,400,000, may be spent in the following order of priority: grants for PSAPs to consolidate physical facilities and technology, funding of public awareness and educational campaigns, and funding to PSAPs for communications equipment related to receiving and dispatching 911 calls as well as costs to access the statewide interoperable communications system. These funds must be spent within the 2017 state fiscal year.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the enabling legislation requires funds to be expended within state fiscal year 2017 and because it is possible that projects approved for funding will need multiple months to be completed. Additionally, the Department will need a period of time at the end of the state fiscal year to ensure that funds expended do not exceed the defined limits.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its September 13, 2016, meeting reviewed the Department’s determination and the amendments and approved the emergency adoption.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective September 14, 2016, because the rapid implementation of the amendments will allow funding to flow to local PSAPs and allow for the timely completion of public safety-related projects. The E911 Communications Council, which functions as the primary advisory body to the Department on E911 issues, unanimously passed a resolution in support of the emergency filing at their July 14, 2016, meeting.

These amendments are also published herein under Notice of Intended Action as **ARC 2740C** to allow for public comment.

These amendments will have a fiscal impact to local E911 service boards. The increase in the wireless E911 surcharge revenue pass-through from 46 percent to 60 percent is projected to increase the annual amount of revenue received by the E911 Service Board from \$12,800,000 to \$16,800,000. The funds made available to the service boards after all costs have been addressed are limited to \$4,400,000 in state fiscal year 2017. In state fiscal year 2016, the fund provided \$11,000,000 to local E911 service boards after all costs had been addressed. The \$11,000,000 expenditure rate was not anticipated to be continued for an extended period of time as the rate was implemented to spend down the surplus balance.

The Department adopted these amendments on September 13, 2016.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 34A as amended by 2016 Iowa Acts, House File 2439 and Senate File 2326.

These amendments became effective September 14, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **605—10.2(34A)**, definitions of “Nonrecurring costs” and “Recurring costs,” as follows:

“*Nonrecurring costs*” means one-time charges incurred by a joint E911 service board or operating authority including, but not limited to, expenditures for E911 service plan preparation, ~~surcharge referendum~~, capital outlay, communications equipment to receive and dispatch emergency calls, installation, and initial license to use subscriber names, addresses and telephone information.

“*Recurring costs*” means repetitive charges incurred by a joint E911 service board or operating authority including, but not limited to, personnel time directly associated with database management and personnel time directly associated with addressing, lease of access lines, lease of equipment, network access fees, communications equipment to receive and dispatch emergency calls, and applicable maintenance costs.

ITEM 2. Rescind subrule 10.9(3) and adopt the following **new** subrule in lieu thereof:

**10.9(3)** Moneys in the fund shall be expended and distributed in the following manner and order of priority:

*a.* An amount as appropriated by the general assembly to the department shall be allocated to the director and program manager for implementation, support, and maintenance of the functions of the director and program manager and to employ the auditor of state to perform an annual audit of the E911 emergency communications fund.

*b.* The program manager shall allocate to each joint E911 service board and to the department of public safety a minimum of \$1,000 per calendar quarter for each public safety answering point (PSAP) within the service area of the department of public safety or joint E911 service board that has submitted an annual written request to the program manager. The written request shall be made with the Request for Wireless E911 Funds form contained in the Wireless NG911 Implementation and Operations Plan. The request is due to the program manager by May 15, or the next business day, of each year.

(1) The amount allocated under paragraph 10.9(3) “*b*” shall be 60 percent of the total amount of surcharge generated per calendar quarter. The minimum amount allocated to the department of public safety and the joint E911 board shall be \$1,000 per PSAP operated by the respective authority.

(2) Additional funds shall be allocated as follows:

1. Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the service area to the total square miles in this state.

2. Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls taken at the PSAP in the service area to the total number of wireless E911 calls originating in this state.

(3) The funds allocated in paragraph 10.9(3) “*b*” shall be used by the PSAPs for costs related to the receipt and disposition of 911 calls.

*c.* The program manager shall allocate 10 percent of the total amount of surcharge generated per calendar quarter to wireless carriers to recover their costs to deliver wireless E911 phase I services as defined in the Federal Communications Commission (FCC) Docket 94-102 and further defined in the FCC’s letter to King County, Washington, dated May 7, 2001. If this allocation is insufficient to reimburse all wireless carriers for the wireless service provider’s eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of the provider’s eligible expenses as compared to the total eligible expenses for all wireless carriers for the calendar quarter during which expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under paragraph 10.9(3) “*c*.” This allocation is for the period beginning July 1, 2013, and ending June 30, 2026.

*d.* The program manager shall reimburse communications service providers on a calendar quarter basis for carriers’ eligible expenses for transport costs between the wireless selective router and the PSAPs related to the delivery of wireless E911 phase I services and the integration of an Internet

protocol-enabled next generation 911 network as specified in the Wireless NG911 Implementation and Operations Plan.

*e.* The program manager shall reimburse wire-line carriers and third-party E911 automatic location information database providers on a quarterly basis for the costs of maintaining and upgrading the E911 components and functionalities beyond the input to the E911 selective router, including the E911 selective router and the automatic location information database.

*f.* The program manager shall allocate \$4,380,000 to the department of public safety in the fiscal year beginning July 1, 2016, and ending June 30, 2017, for payments and other costs due under the financing agreement entered into by the treasurer of state for building the statewide interoperable communications system pursuant to Iowa Code section 29C.23(2) as amended by 2016 Iowa Acts, Senate File 2326.

*g.* The department may, in a reserve account established within the E911 emergency communications fund, credit each fiscal year an amount of up to 12½ percent of the annual emergency communications service surcharge collected pursuant to rule 605—10.8(34A) and the prepaid wireless E911 surcharge collected pursuant to rule 605—10.17(34A). However, the moneys contained in such reserve account shall not exceed 12½ percent of the total surcharges collected for each fiscal year. Moneys credited to the reserve account shall only be used by the department for the purpose of repairing or replacing equipment in the event of a catastrophic equipment failure, as determined by the director.

*h.* If moneys remain in the fund after all obligations are fully paid under paragraphs 10.9(3) “a,” “b,” “c,” “d,” “e,” “f,” and “g,” an amount of up to \$4,400,000 shall, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, be expended and distributed in the following priority order:

(1) The director, in consultation with the program manager and the E911 communications council, may provide grants for nonrecurring costs to the department of public safety or joint E911 service board operating a PSAP agreeing to consolidate. For purposes of this subparagraph, “consolidate” means either the consolidation of all PSAP systems, functions, enhanced 911 service areas, and physical facilities of two or more PSAPs, resulting in responsibility by the consolidated PSAP for all call answering and dispatch functions for the combined enhanced 911 service area, or the consolidation of two or more PSAPs utilizing shared services technology to combine PSAP systems, including but not limited to 911 call processing equipment, computer-aided dispatch, mapping, radio, and logging recorders. Such a grant to a PSAP shall not exceed one-half of the projected cost of consolidation, or \$200,000, whichever is less. The department of public safety or joint E911 service board wishing to apply for such funds shall complete an Intent to Consolidate Application form prior to December 1, 2016. The form can be found on the department’s Web site, [www.homelandsecurity.iowa.gov](http://www.homelandsecurity.iowa.gov). Such applications shall provide a detailed consolidation plan and demonstrate that the proposed project shall be completed prior to June 30, 2017.

(2) The program manager, in consultation with the E911 communications council, shall allocate an amount, not to exceed \$100,000 per fiscal year, for development of public awareness and educational programs related to the use of 911 by the public; for educational programs for personnel responsible for the maintenance, operation, and upgrading of local E911 systems; and for the expenses of members of the E911 communications council for travel, monthly meetings, and training, provided, however, that the members have not received reimbursement funds for such expenses from another source.

(3) The program manager shall allocate an equal amount of moneys to each PSAP for the following costs:

1. Costs related to the receipt and disposition of 911 calls, including hardware and software for an Internet protocol-enabled next generation 911 network as specified in the Wireless NG911 Implementation and Operations Plan.

2. Local costs related to access the statewide interoperable communications system pursuant to Iowa Code section 29C.23 as amended by 2016 Iowa Acts, Senate File 2326.

(4) Any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/12/16.